

BEFORE THE
STATE BOARD OF PHARMACY
STATE OF MISSOURI

MISSOURI BOARD OF PHARMACY,)	
)	
Petitioner,)	
)	
v.)	Case No. 19-0473
)	
KEVIN P. HOFFMANN, R.PH.,)	
)	
Respondent.)	

**FINDINGS OF FACT, CONCLUSIONS OF LAW,
AND ORDER OF DISCIPLINE**

This matter is before the Missouri Board of Pharmacy to determine appropriate disciplining action following the July 22, 2019, Default Decision of the Administrative Hearing Commission establishing that Petitioner is entitled to discipline the pharmacist license of Kevin Hoffmann.

Procedure

The Board is in receipt of the Administrative Hearing Commission certified record. This Board held a disciplinary hearing on October 16, 2019, at the Courtyard by Marriot, 3301 Lemone Industrial Blvd., Columbia, Missouri. Notice of the disciplinary hearing was served on Hoffmann via certified mail on September 13, 2019. Hoffmann did not appear. The Board was represented by Alicia Embley Turner.

Findings of Fact

1. The default decision of the AHC granted the Board the relief requested in its complaint, which was to grant the Board authority to discipline Hoffmann's pharmacy license pursuant to §338.055.2(5), (6), (12) and (13), RSMo., based on the factual basis alleged in the complaint. The Board hereby incorporates the complaint from the AHC's certified record.

Conclusions of Law

Hoffmann's pharmacist license is subject to discipline pursuant to the Administrative Hearing Commission's default decision and the provisions of §338.055.3.

Order

IT IS HEREBY ORDERED by the Missouri Board of Pharmacy that the pharmacist license issued to Kevin P. Hoffmann, numbered 2011000409, is **SUSPENDED** for a period of 6 months, and thereafter placed on **PROBATION** for a period of 2 years. The terms of suspension and probations shall jointly be referred to as the disciplinary period. This Order shall become effective fifteen (15) days after it is signed by the Executive Director.

During the period of **SUSPENSION**, Hoffmann is restricted from practicing pharmacy:

1. Hoffmann shall not engage in any activity or conduct in the State of Missouri for which a license as a pharmacist, intern pharmacist, or a registration as a pharmacy technician is required.
2. Hoffmann shall not practice pharmacy nor do any act involving drug selection, ordering of legend drugs for a licensed pharmacy or drug distributor, drug manufacturing, compounding, dispensing or patient consultation.
3. Hoffmann shall not direct or control any aspect of the practice of pharmacy. Additionally, Hoffmann shall not manage, administer or be a consultant to any licensee of the Board or have access to or control the ordering, manufacturing or dispensing of legend drugs or controlled substances. Hoffmann may, however, continue to own or hold an interest in any licensed premises in which he/she holds an interest at the time this Order becomes effective, unless otherwise specified by this Order.
4. Hoffmann shall not be physically present in a pharmacy during suspension except as a bona fide customer. Hoffmann may, however, be employed at a facility that maintains a pharmacy, so long as that employment does not include the practice of pharmacy, require registration as a pharmacy technician, or require and/or permit Hoffmann's physical presence in the licensed (permit) area of the facility or any area used to store, stock or dispense legend drugs.
5. Hoffmann shall not serve as the manager-in-charge of any drug distributor during the period of suspension and shall not direct or control any aspect of drug distribution in this state. Hoffmann may continue to own or hold any interest in a drug distributor which Hoffmann holds at the time this Order becomes effective unless otherwise specified by this Order.
6. Hoffmann shall not use the term "R.Ph.", "Pharmacist", or any other title or designation which would signify that Hoffmann can legally practice pharmacy, in either printed or verbal form, during the suspension period.

7. Hoffmann shall not be personally involved in any aspect of a pharmacy's processing, dispensing, or billing of any prescription for himself/herself or any family member.
8. Hoffmann shall not post any indicia of his/her Missouri pharmacist licensure in a public space (i.e.- the original wall-hanging certificate, the computer generated 5" x 7" license, or the wallet card).

During the DISCIPLINARY PERIOD, Hoffmann shall comply with the following terms and conditions:

1. Hoffmann shall comply with all applicable provisions of Chapter 338, Chapter 195, Chapter 196 and all applicable federal and state pharmacy/drug laws and regulations and all federal and state criminal laws. "State" here includes the State of Missouri and all other states and territories of the United States.
2. Hoffmann shall not serve as pharmacist-in-charge or manager-in-charge of any entity licensed or regulated by the Board, or as a preceptor for pharmacy interns or as a teaching member of any school or college of pharmacy. Additionally, Hoffmann shall not serve as a consultant required by a Board disciplinary order for any pharmacy/drug distributor.
3. Hoffmann shall keep the Board apprised of his/her current home, electronic mail (e-mail) and work addresses and telephone numbers. Hoffmann shall notify the Board of any change in Hoffmann's employer or Hoffmann's home or work address within ten (10) days of such change in a manner approved by the Board. For employer/work changes, Hoffmann's notification shall include the reasons for the change. If at any time Hoffmann is employed by a temporary employment agency or maintains employment that requires frequent daily or weekly changes of work locations, he/she must provide the Board a list of locations worked if requested by the Board or Board's representative.

4. If Hoffmann's license expires or becomes void/invalid, upon renewal or reapplication Hoffmann's license shall be subject to all terms and conditions of discipline not previously satisfied, including, any remaining suspension/probationary period.
5. Hoffmann shall cooperate with the Board's monitoring and investigation of Hoffmann's compliance with the terms and conditions of this Disciplinary Order/Settlement agreement. Hoffmann shall make himself/herself available for personal interviews to be conducted by a member of the Board or the Board of Pharmacy staff. Said meetings shall be at the Board's discretion and may occur periodically during the disciplinary period.
6. Hoffmann shall respond to any written inquiry of the Board and provide any requested documentation/records within three (3) days of receipt of a written request from the Board or the Board's authorized designee, or as otherwise requested by the Board/Board designee.
7. If requested by the Board, Hoffmann shall submit to a criminal history background check via the Board's approved vendor at Hoffmann's cost. Unless otherwise directed by the Board, Hoffmann shall submit the required fingerprints and undergo the requested criminal history background check within ten (10) days of the Board's request.
8. Hoffmann shall submit to any drug, alcohol or urinalysis testing requested by the Board, at Hoffmann's cost. Testing may be conducted on any human sample, including, but not necessarily limited to, urine, blood, breath, hair, nails, skin or saliva. The timing, manner and scheduling for testing is within the Board's sole discretion.
9. Hoffmann shall report any of the following occurrences to the Board, in writing, within seventy-two (72) hours of such occurrence:
 - a. Any arrest or issuance of a criminal complaint;
 - b. Any municipal/local arrest, citation or complaint relating to drugs, theft, shoplifting, burglary, possession of drug paraphernalia, driving or operating a motor vehicle under the influence/while intoxicated or illegally possessing, selling or purchasing alcohol, any drug or drug paraphernalia;

- c. A finding or plea of guilty or nolo contendere in any state or federal criminal proceeding to any criminal complaint, information or indictment, including, but not limited to, any deferred or diverted adjudication, order or agreement;
- d. A conviction of any crime, including, but not limited to, any Suspended Imposition of Sentence ("SIS") or Suspended Execution of Sentence ("SES");
- e. A finding by a court that Hoffmann has violated any term of his/her criminal probation/parole;
- f. Any discipline, citation, or other administrative action filed or taken against Hoffmann by any state board/committee of pharmacy, or any other state or federal agency.

Failure to timely report any of the foregoing occurrences shall be considered a disciplinary violation.

- 10. If Hoffmann is currently or begins serving any period of criminal probation/parole, Hoffmann shall provide the name of his or her probation/parole officer to the Board, in writing, within ten (10) days of the effective date of this Order or within ten (10) days of the designation of a probation/parole officer. If Hoffmann's probation/parole officer is changed for any reason, Hoffmann shall submit the name of the replacement officer to the Board within ten (10) days of the change/modification. Hoffmann shall execute a release authorizing his/her probation or parole officer to provide to the Board any information relating to Hoffmann's probation or parole. Hoffmann shall maintain the release in effect and shall provide an updated release if requested by the Board.
- 11. Hoffmann shall file a "Disciplinary Compliance Report" with the Board in a form/manner approved by the Board. The Disciplinary Compliance Report shall be due by January 1 and July 1 of each calendar year. Hoffmann's final Disciplinary Compliance Report shall be filed no later than ninety (90) days before the end of the probationary period.
- 12. Hoffmann's failure to comply with any condition of discipline set forth herein constitutes a violation of this disciplinary Order.

13. The parties to this Order understand that the Board of Pharmacy will maintain this Order as an open record of the Board as provided in Chapters 324, 338, 610, RSMo.

NOTICE TO EMPLOYERS

14. If applicable, Hoffmann shall notify any employer of the employer's need to apply for and receive the necessary state (misdemeanor/felony) and federal (felony) waivers from the Bureau of Narcotics and Dangerous Drugs and the Drug Enforcement Administration in order to be employed within a facility that maintains state or federal registrations for the purpose of storing, distributing or dispensing controlled substances.
15. Except as otherwise provided herein, "Employment" within the meaning of this Order shall include any full-time, part-time, temporary, relief or pharmacy management service as a pharmacist or any position for which a pharmacist license, pharmacy intern license or pharmacy technician registration is a requirement or criterion for employment, regardless of whether Hoffmann is an employee, independent contractor, volunteer, instructor or consultant. "Employment" shall also include any entity where legend drugs are stored, sold, dispensed or distributed.
16. Hoffmann shall notify any current or future employers of this action by providing a copy of this Disciplinary Order/Settlement Agreement to the pharmacist-in-charge or manager-in-charge of any pharmacy or drug distributorship where Hoffmann is employed, on or before the effective date of discipline or prior to accepting any offer of employment.
 - a. If Hoffmann is not or will not be employed by a pharmacy or drug distributor, the notice shall be provided to Hoffmann's direct supervisor at Hoffmann's current/prospective place of employment, as defined herein, within the timeframes required by this section.
 - b. For purposes of this Order, a pharmacy shall also include, but is not limited to, any location providing pharmacy services for

inpatients of a licensed hospital or residents of a long-term care facility.

17. Hoffmann shall cause the pharmacist-in-charge, manager-in-charge or supervisor to sign a written acknowledgment on a form approved by the Board indicating that he/she has received and reviewed the Disciplinary Order/Settlement Agreement and the terms and conditions imposed thereby. The written acknowledgement shall be signed and dated by the applicable pharmacist-in-charge, manager-in-charge or supervisor and shall be submitted to the Board by Hoffmann for verification within ten (10) days of the dated signature. Hoffmann shall be responsible for ensuring the required signed acknowledgments are timely submitted to the Board.
18. If at any time Hoffmann is employed by a temporary employment agency, Hoffmann must provide each employment agency a copy of this Disciplinary Order/Settlement Agreement prior to being assigned to a temporary employment site. Hoffmann shall also provide a copy of the Disciplinary Order/Settlement Agreement to each pharmacist-in-charge or manager-in-charge of each pharmacy or drug distributor where Hoffmann is assigned to work. If the pharmacist-in-charge or manager-in-charge is not present at the employment site, a copy of the Disciplinary Order/Settlement Agreement shall be left at the applicable site for the pharmacist-in-charge/manager-in-charge to review. Hoffmann shall provide an accurate listing of all employment/work sites where Hoffmann has been assigned if requested by the Board or the Board's authorized designee.
19. Licensee shall execute any release or provide any authorization necessary for the Board to obtain records of Hoffmann's employment during the period covered by this Disciplinary Order/Settlement Agreement.

CONTINUING EDUCATION

20. Within three (3) months of the effective date of this Disciplinary Order/Settlement Agreement, Hoffmann shall take and pass the Board approved Pharmacy Practice Guide Continuing Education

Examination, if available. Hoffmann shall register and complete the required examination via the Board's website or as otherwise requested by the Board.

21. Hoffmann shall take a minimum of 6.0 continuing education (0.60 CEUs) hours in pharmacy law during each biennial pharmacist renewal period that is completed while Hoffmann is on discipline. The continuing education required by this section shall comply with 20 CSR 2220-7.080 and may be used to satisfy the licensee's biennial continuing education requirement. Proof of compliance with the continuing education requirements of this section shall be submitted to the Board on or before October 31st of each biennial pharmacist renewal period.

Upon the expiration of the disciplinary period, Hoffmann's license as a pharmacist shall be fully restored if all other requirements of law have been satisfied; provided, however, that in the event the board determines that Hoffmann has violated any term or condition of this Order, the Board may, in its discretion, after an evidentiary hearing, vacate and set aside the discipline imposed herein and may suspend, revoke, or otherwise lawfully discipline Hoffmann's pharmacist license.

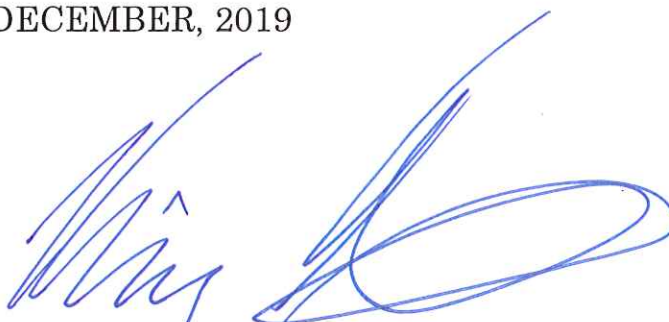
No order shall be entered by the Board pursuant to the preceding paragraph of this Order without notice and an opportunity for a hearing before the Board in accordance with provisions of Chapter 536, RSMo.

If the Board determines that Hoffmann has violated a term or condition of this Order, which violation would be actionable in a proceeding before the

Administrative Hearing Commission or the Circuit Court, the Board may elect to pursue any lawful remedies or procedures afforded it and is not bound by this Order in its determination of appropriate legal actions concerning that violation.

ENTERED THIS 27th DAY OF DECEMBER, 2019

(BOARD SEAL)



KIMBERLY GRINSTON
EXECUTIVE DIRECTOR
MISSOURI BOARD OF PHARMACY